

13th December 1938]

Temples in the various taluks assessed to contribution on an annual income of above Rs. 5,000 and below Rs. 5,000.

25 Q.—SRI B. NARAYANASWAMI NAYUDU: Will the Hon. the Minister for Public Health be pleased to state—

(a) the names of the temples in each revenue taluk which are assessed to contribution under section 69 of the Madras Hindu Religious Endowments Act, 1926, on an annual income of Rs. 5,000 and upwards; and

(b) the names of the temples in each revenue taluk which are assessed to contribution under section 69 of the said Act on an annual income of less than Rs. 5,000?

A.—(a) A statement^a is placed on the table.

(b) The Government have not the information asked for and it cannot be collected without considerable labour.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

GOVERNMENT BUSINESS.

II.—THE MADRAS MINOR PORTS FUND BILL, 1938 (L.A. BILL No. 20 OF 1938), AS PASSED BY THE ASSEMBLY.

* THE HON. MR. YAKUB HASAN:—“ Mr. President, I beg to move—

‘ That the Bill^b to provide for the disposal of the balance to the credit of the Minor Ports Fund in the Province of Madras (L.A. Bill No. 20 of 1938) as passed by the Legislative Assembly be taken into consideration at once.’

There is a saying that brevity is the soul of wit. But in the case of the Statement of Objects and Reasons attached to the Minor Ports Fund Bill brevity did not hit the mark. A certain amount of knowledge was assumed on the part of the public, but subsequently it was found that even the members of the Legislature were not acquainted with the system under which the minor ports are administered. If the Statement of Objects and Reasons was more comprehensive and the scope not only of the Minor Ports Fund but also of other connected marine funds was explained, misgivings and suspicions may not have arisen, at least not to the extent that they have arisen. When once suspicions are aroused

^a Printed as Appendix IV on pages 167–174 infra.

^b Printed as Appendix V at page 175 infra.

[Mr. Yakub Hasan] [13th December 1938]

and misgivings are created, it is very difficult to dispel them. I hope, however, that my attempt to clear the position in the Legislative Assembly has not been in vain. I expect that the members of this House who may have followed the proceedings of the Assembly closely will understand the situation better.

“ The administration of the minor ports is carried on and conducted under the provisions of two Acts. First, the Central Act, the Indian Ports Act of 1908 and the other Provincial Act, the Madras Outports Landing and Shipping Fees Act of 1885. Tuticorin is the only minor port that has got a separate trust board to administer its affairs. All the other 54 ports—some people are under the impression that there are 104 ports, but there are only 54 ports—are for the purposes of finance and expenditure regarded as one port. The revenues that are collected on the tonnage of vessels that enter the ports are credited to the Minor Ports Fund. Out of the 54, 15 ports are large and important and the Landing and Shipping Fees Act is made applicable to 12 out of the 15 ports. Then there are ten ports that have Landing and Shipping Committees or Port Conservancy Boards. Each of the 12 ports has a Landing and Shipping Fund of its own. The port dues that are collected and credited to the Minor Ports Fund are to be spent on (a) the pay, allowance, pensions, etc., of the employees and (b) the cost of buoys, beacons, lights and all other works maintained chiefly for the benefit of the vessels entering, or leaving the ports or passing through rivers or channels leading thereto. These are the purposes on which the port dues are to be spent. Similarly landing and shipping fees are collected and are credited to the Landing and Shipping Fund. Each port, as I said, out of the 12 ports has got a Landing and Shipping Fund of its own. Now after meeting the normal expenditure of the ports, there is always a surplus in the Minor Ports Fund every year. Similarly after meeting the expenditure connected with landing and shipping there is a surplus in the Landing and Shipping Fund of each port. Now the question offers itself to everyone: when there is after meeting the expenditure on the ports so much surplus, why not reduce the port dues? Similarly after meeting the landing and shipping expenditure there is a surplus in the Landing and Shipping Fund, why not then, reduce the landing and shipping fees? That is what some people say, but this question is not to be dealt with on that basis. Port dues may be reduced if they are too high, and they have a deterrent effect on trade, and by reducing them, traffic may increase. If it is found to be so, it is justifiable to reduce the port dues. Port dues are not to be reduced simply because there is a surplus and so the money should be given away. At the same time if the port dues are not enough to meet the expenditure that legitimately falls on the Fund, then the port dues should be raised to meet the extra expenditure. These are

13th December 1938] [Mr. Yakub Hasan]

the ordinary methods on which any concern, especially a commercial concern, any concern the object of which is to give service, is managed. In the same way, the landing and shipping fees can be reduced if it is necessary to reduce them, if by reducing the landing and shipping fees, we can increase and attract more traffic. At the same time the port dues can be increased to the extent that such increase is justifiable and the trade can bear it. Simply because there is a surplus, the Government are not bound to spend the money away somehow.

“As regards capital outlay, Government spend money out of the Minor Ports Fund on such capital outlay as will facilitate the entering and outgoing of the vessels. It can be spent on works maintained chiefly for the benefit of vessels entering, or leaving the ports or passing through rivers or channels leading thereto. This is the only object for which the surpluses of the Minor Ports Fund can be utilized. Similarly, the surplus in the Landing and Shipping Fund of a port could be utilized for improving the conditions of the ports, which will make landing and shipping more efficient, in improving the wharfs, in building warehouses, etc. The channel or the backwater which is near the ports in which the boats carrying cargo and passengers enter may silt up, and the silt has to be removed by the use of dredgers. The dredging operations are thus done for the benefit of shipping and landing. All this expenditure legitimately falls on the Landing and Shipping Fund.

“The Madras Minor Ports Fund is not the only fund that has got accumulated surpluses. The Landing and Shipping Fund of each port has got a balance. For example Masulipatam has got Rs. 89,000; Mangalore Rs. 1,25,000; Calicut Rs. 3,20,000; Cuddalore Rs. 3,30,000 and Cocanada Rs. 14,00,000. Now because there are surpluses in the Fund, the Government always tried to see what improvements are necessary for making the entry and clearance of vessels efficient and more easy, on which the Minor Ports Fund could legitimately be used and all the suggestions that have been made in the matter and found feasible were carried out. At the same time Landing and Shipping Committees applied for funds for the improvement of their works and the Government have met their demand to the necessary extent. If any Committee had sufficient balance in its fund it met that expenditure from the Fund. When they had no funds, they asked for loans and Government have given them loans. In some cases they asked for a half-grant and a half-loan, which also the Government have met. Some others said, ‘We have no money, nor the means to pay back a loan’; and in such cases, Government give free grants from the Minor Ports Fund.

“It was complained, ‘Why did not the Government, when they had so much money in the Ports Fund, go about inquiring

[Mr. Yakub Hasan] [13th December 1938]

what were the necessities of the several ports?' The charge was also made that the Government had neglected their duty. In my speech in the other House I have pointed out that the Government have never been negligent. All the suggestions that were received from time to time were examined, and every effort was made to find out what was needful in each case. I need not go into these details, as they have already appeared in the Press under the proceedings of the Assembly. But since the intention of the Government has been suspected, since people have said that this Fund is necessary for the use of the minor ports and that the Government should not take away the whole Fund, I shall say this. Every effort has been made to find out what the requirements of the ports were on which this Fund can be utilized. Before this Bill was brought forward, the Government inquired of the Presidency Port Officer what the requirements of the several minor ports were and he made exhaustive inquiries and sent us a list of the requirements of the ports. He did not go into the merits of each of those requirements; he simply laid before the Government the list; he simply said, 'These are all the possible improvements that can be made.' Now, we are going fully into the question as to how far these improvements are justified. I have received deputations and I have visited several ports to see what improvements were necessary and I have received a list from Mr. Nuttall. Almost all the items in this list are covered by the recommendation that the Presidency Port Officer has submitted. Even if all these improvements are found necessary, the amount that the Ports Fund may be called upon to bear will not exceed 12 lakhs. The exact figure is Rs. 11.54 lakhs. That is all the money that is required. I said in my speech in introducing the Bill that we were not going to take away all the money that is now standing to the credit of Minor Ports Fund. Sufficient fund will be left behind to be used on the improvement of the ports. My idea was that a permanent balance of five lakhs of rupees may be kept; anything in excess of that may go to the general revenues. In addition to the permanent balance of five lakhs I wanted that a reserve fund of 15 lakhs may be earmarked for the improvement of the minor ports to be utilized when the improvements have been fully considered. But in the Select Committee it was decided that 'Instead of five lakhs, twenty lakhs may be kept in the same fund and Government to have the power to transfer to the general revenues after spending from this Fund what remains out of Rs. 20 lakhs. This question of the transfer will be raised before the Legislative Assembly, and a resolution will be moved authorizing the Government to transfer what is left in that Fund. So henceforth the Legislature will have a voice in deciding whether the diversion of the Fund was justified and also what amount was justifiable. So that is a great improvement in the Bill. Sir, I have said enough to commend this Bill for the consideration of the House."

13th December 1938]

* MR. D. M. REID:—“ Mr. President, may I firstly offer my congratulations to the Hon. Minister on this by far the most effective speech that I have heard him make. His speech was built and delivered with great care and thought and gave a clear enunciation of the policy of the Government. I feel therefore no diffidence in standing up to maintain the principle which the members of my constituency have held since this question was started. I should like to say that we much appreciate the work done in the Select Committee and the correct action of the Government in meeting us by the retention of twenty lakhs, which is the main aspect of this Bill.

“ I do not wish to detain the House too long, but there are certain things which I think ought to say. We object in principle to the appropriation to public revenue of money collected from importers and exporters for services rendered by the ports in connexion with the import and export of goods. The Central Government, in all countries, retains the control of certain very important sources of revenue such as income-tax, customs and the control of import and export charges in the ports in order to have uniformity. In India the major ports are chiefly under the control of the Central Government, while the minor ports are in the hands of the Provincial Government, which is a reasonable thing in order that the minor ports may receive more constant and easy attention. I do not think that it was ever the intention of the Central Government or the Government of India Act that the Provincial Government should have any right to the sums collected, for the reasons explained by me earlier. This is the first time that this thing happens in this particular case. I can with all honesty say that it is not right for the Provincial Government to take away a sum of money which happens to be available and which is not immediately needed for any other purpose. I say, ‘ which is not immediately needed for any other purpose.’ But that does not controvert the previous principle which I stated.

“ The periodical repetitions undoubtedly convert this happy chance into a tax on imports and exports. Now I had thought that this was only a happy chance and that the Hon. Minister, and perhaps the Hon. the Prime Minister himself, would give an assurance that this was only a special occasion and would not be a precedent. Perhaps I ought to have read more carefully the details of the speeches in another place: It came as rather a shock to find the Hon. Minister indicating that this was not necessarily the first time that such a surplus would be made available to the Government. I realize indeed that the last sentence of the Bill makes it permissive and subjects it to the approval of the Lower House. But what worried me in the speech was that the Hon. Minister said that there ought to be always a surplus; and it seems to me that he intends that there always shall be a surplus and that

[Mr. D. M. Reid] [13th December 1938]

there shall always be a fund steadily accumulating which shall be made over to the revenues of the Province. That undoubtedly seems to indicate to me that it is the intention of the Government to convert this into a regular source of revenue. And, Sir, I respectfully submit to the Government that this is wrong in principle. I do not note from the Treasury Bench any dissent from what I have suggested.

"This again immediately connects the Provincial Government with the control and export trade. In the major ports the Central Government do not in fact control the administration of those ports. They interfere only in particular cases when difficult matters are put before them. The trustees themselves, subject to the confirmation of the Government which is almost invariably given, control the ports. The trustees have no connexion with Central or Provincial revenues. They are solely concerned to make the port as good, cheap and efficient as possible.

"Here, Sir, I see a great danger in the minor ports being made rather a source of revenue rather than a source of efficiency. The Hon. Minister said that he saw no reasons for the dues being reduced unless trade necessitated it which means that the dues can be kept at a rate far above the necessities of the port, if the trade can meet it. We know from the railways that it is possible to levy a much higher rate on some goods than others because they can stand it and to make the more expensive goods pay for carrying the inexpensive goods."

* THE HON. MR. YAKUB HASAN:—"I will simply assist you. The railway has a freight and the shippers also have a freight. Please do not mix them."

* MR. D. M. REID:—"No, Sir. I think I was going to say the same thing. I was only drawing a parallel between both freights. The word 'freight' would confuse matters. I am well aware of the fact that it does not come into this matter; I was only going to draw a parallel. The Provincial Government should not make one apparent source of revenue excessive when there is no necessity for it. Sir, I respectfully submit to the Government, that it is a vicious principle that anything should be made to bear far more than it need pay, if it is not a legitimate source of revenue to the Province. This source of revenue is not a proper source of revenue to the Province and was never intended to be such. May I repeat that I understand and appreciate the present situation in which apparently there is a large sum of money all of which is not immediately needed, and which the Government wish to transfer to their general revenues? I understand that point of view. But it is an evil principle if it is made a regular principle and if it is not regarded as a fortuitous circumstance. Perhaps I am touching a delicate subject. It is only right and proper that

13th December 1938] [Mr. D. M. Reid]

this democratic Government should stand up and bear the mistakes of previous Governments. I am glad to note that this Government have notably done so in respect of circumstances and actions that have been done before by the previous Governments. Therefore I do hope the Hon. Minister will not mind if I attack the policy of the previous Governments in this matter. Sir, I suggest that it has for long been a custom to try to prevent the expenditure of money on public services from the heaven-born individuals at the top, under the guise of economy, and to discourage the people lower down, telling them to be pleased with what they can get. There is money available for them, and I suggest, and I think it is true, that the officers concerned in the past have been so bullied and prevented from getting what they demanded that they have been very chary in expending and putting forth the necessary schemes for these ports. If, Sir, we were in one of those countries which we look upon with such apprehension, the totalitarian countries, undoubtedly our minor ports will be very different from what they are to-day. If we go and see them, we see astonishing progress. I am not for a moment suggesting that we should depart from the democratic principles on which we now stand. But what I would suggest to the Prime Minister, the Hon. Minister in charge and the Government is that behind them should be the spirit of improvement in every direction, and I respectfully say that I do not think that the previous Governments have realized that, nor have they made any serious effort to go into the matter of minor ports. No previous Minister has done such hard work nor sat at his work for such long hours as the Hon. the Minister for Public Works has done during the last two or three months. (Hear, hear.) I should like to take this opportunity of expressing the gratification of everyone in this Presidency for the work that he has done. (Hear, hear.) There is no need for me to go into the details on this subject. I appreciate what the Government have done. But I would like to repeat that I cannot approve of the general principle of making this a regular source of revenue."

* Mr. J. A. SALDANHA:—"Mr. President, I had long since 1925 been concerned with the better administration of minor ports and I had been trying my best to prevent the negligence, maladministration and extravagance on the part of the ports authorities. Since I re-entered the Council one of the first questions I put was with reference to the administration of these ports. Then in my last budget speech also I pressed this point. But neither the Hon. Minister for Public Works nor the Prime Minister condescended to refer to it. They were so callous about this matter. I was rather alone then in pressing the point, on principle as also for practical purposes. I am now here fortified with the opinion of my South Kanara Catholic Mercantile and Industrial Association. The Catholic community holds a dominant position in Mangalore and South Kanara in matters concerning trade such as tile

[Mr. J. A. Saldanha] [13th December 1938]

factories and coffee. This association strongly disapproves the policy of the Government regarding the minor ports and is opposed to the Bill and wants me to bring to the notice of the Government the wretched condition of ports like Malpe and Mangalore. The Bill, I submit, is preposterous, uncalled for and unwanted. We would rather prefer a Bill to supplement the amount which ought to have been spent and could have been spent. If only the Hon. Minister had sent round his Parliamentary Secretary, he could have had plenty of work and gone deeper into the question and submitted comprehensive proposals, after consulting port people and officers concerned. The Hon. Minister was in Mangalore but no mercantile members of my community could see him. I could not see him."

MR. PRESIDENT:—"The hon. Member is not dealing with the tour of the Minister."

[MR. J. A. SALDANHA:—"I am only trying to point out that this tour was useless for the purpose of eliciting the necessary public opinion on these points. We want the Minister to feel the pulse of the people. That has not been done. Another mercantile association has also protested against the Bill. It is stated that only one member of it was able to bring to the notice of the Hon. the Minister the defects of the port of Mangalore and other ports in South Kanara. The arguments advanced in favour of this Bill I am afraid are based on fictions. One fiction is that this Government consider that these minor ports are to come under their control for the purpose of administration. That is not the case. This has been a department of the Government for over half a century. What have they done? They have neglected everything and now they find that there is accumulation of funds and want to appropriate them. This is neither a sound nor a just policy. The reports of these minor ports have been meagre and never contained full particulars of their income or expenditure. So difficult it is for any one to ascertain the exact financial position of these ports. All these years the conditions of these ports have continued to be bad. For instance, in the bar of the port of Mangalore the depth of water, it is reported, was only 5 feet in September and it was difficult for the boats laden with cargoes to come in or go out. Many sailing ships are unable to enter the port and have to remain in the open sea on account of the fact that the depth of water at the bar was low.

"Then, Sir, take the port of Masulipatam. This port also has been in a neglected condition. My hon. Friend, Mr. Reid, estimated that the improvement of this port might cost about 10 to 20 lakhs. The Cocanada and other ports also require improvements. What are these ports for if the people cannot have even

13th December 1938] [Mr. J. A. Saldanha]

the most necessary landing and shipping facilities? Besides, the administration of many of these minor ports has been unsatisfactory. Some years ago (in 1926) I moved an adjournment motion in connexion with the Tuticorin Harbour Works. It was carried. I am afraid I would have to move another adjournment motion in connexion with this matter now.

“One last word, Sir, and I am done. I urge, Sir, that the port dues and fees should be reduced. Excessive rates are now charged and these may be reduced. There cannot be a surplus and there ought not to be a surplus. If the Hon. Minister appoints a committee to go into the matter with regard to the Malabar and South Kanara ports, schemes can be drawn up for spending all this surplus in those ports themselves within a year. I therefore should protest against this measure as a most preposterous proposal. It is wrong in principle and wrong also economically and financially. I hope therefore that the Government will drop this Bill and bring a Bill for supplementing the funds of the minor ports and for better administration of ports.”

* SRI RAO BAHADUR M. RAMAKRISHNA REDDI:—“Mr. President, we are told by the Hon. Minister that there are 54 minor ports in this Province and that only 15 of them are important ports levying landing and shipping fees. These facts go to prove that all the 54 ports are not up to the mark all these years. That is to say, that the previous Government have not bestowed their best attention on these ports and improved the facilities available there. It is an admitted fact, Sir, that the ports play an important part in the trade and commerce of a country and that the prosperity of a place depends upon its ports. Therefore, it is the misfortune or ill-luck of our Province that the previous Governments have not done their best for the improvement of these ports. (Dr. Sir. K. V. Reddi Nayudu: ‘Question.’) Beg your pardon. Mr. President, even then they had with them a sum of Rs. 60 lakhs and they could have done their best to improve these ports. That is my complaint even to-day. Mr. President, under the present Government, the Government which can be said to be the people’s Government, matters are going from bad to worse; it is a matter for regret. At least the people’s Government may allow the funds to remain with the ports so that their successors may have an opportunity to improve the facilities in these ports if they had a mind to do so. They are not going to do that. The present Government, as ill-luck would have it, are not prepared to allow these funds to remain with the ports; they want to confiscate the funds and see that the posterity also is deprived of the facilities which could be given by the utilization of these funds on the ports themselves. I say, in that respect, the previous Government was decidedly better than the present Government. That is my opinion so far as this is concerned. The present Government, as soon as they got

[Sri M. Ramakrishna Reddi] [13th December 1938]

into power, ought to have drawn up a detailed scheme in consultation perhaps with the leading merchants of this Province and on the advice of the port officers concerned for the purpose of improving the existing ports. Instead of doing that, they have come down with a proposal to transfer the funds as they like. It is not known what funds they are leaving for the benefit of the ports. In the original Bill they wanted to leave only Rs. 5 lakhs for the ports. When the Bill went before the Select Committee they raised the figure to Rs. 20 lakhs. I do not know whether the ports require all the Rs. 60 lakhs or even more to raise their status as major ports. But the fact that the figure has gone up from Rs. 5 lakhs to Rs. 20 lakhs leads to the suspicion whether the ports do not require all Rs. 60 lakhs. We do not know anything and we have no information. Therefore, before passing this Bill, I would suggest to the Government to appoint a committee of leading experts to enquire and report whether these ports require improvement and if so, to what extent and at what cost. If the report of the committee says that Rs. 20 lakhs would be quite enough for the purpose, we are not going to object to the taking away of the balance. Without going about the business in that way, the Government simply say that they want Rs. 40 lakhs. We are therefore justified in asking, why they want these Rs. 40 lakhs and what is the extraordinary condition necessitating this diversion. The Government can tell us for what purpose they want this money. They have not done so. In the absence of information on any of these points, it is only reasonable to conclude that these ports themselves may require all these 60 lakhs. I would, however, suggest to the Government to draw up a scheme and prove to the Council how these 20 lakhs would be enough to improve the ports. In that event I would have no objection to allow the Government to draw the balance.

“ However, Sir, this is a bad thing in principle. Now, the local boards collect pilgrim tax. This tax is intended to be spent in the interests of the pilgrims themselves. There is also the pilgrim tax levied by the municipalities. This is also intended to be spent for the benefit of the pilgrims. If now the Government themselves take power to spend certain funds on objects not intended originally, what is there to prevent the municipalities and local boards doing likewise? Is there any reason to object to their adopting this procedure and diverting the pilgrim tax? So, the Government are setting a bad example to the local boards. Sir, there are also various other funds collected by the village panchayats and so on. For instance they have the water-shed funds—an amount set apart to maintain water-sheds in the summer. They can say hereafter: ‘Look here, the Government are not observing the principle of non-diversion. Why not we also divert funds?’ ”

13th December 1938] [Sri M. Ramakrishna Reddi]

“ So the Government are setting up a bad example to the local boards. My humble suggestion is that before they pass this Bill into an Act, they must appoint a committee to draw up a scheme of their expenditure and then should come to tell us for what purpose they want so many lakhs of rupees which is said to be surplus. Otherwise I only protest that the present amount of Rs. 20 lakhs is not sufficient for the ports and therefore I oppose the motion before the House.”

12-30
p.m.

DR. SIR K. V. REDDI NAYUDU:—“ I beg to associate myself with Mr. Reid in the appreciation of the speech of the Hon. Minister. Perhaps for the first time in this House, we have listened to a speech of an Hon. Minister from the Treasury Bench attempting not merely to explain the position so that the Members of this House may be able to follow him but also trying to conciliate the public feeling both in this House and outside. Our thanks are due to him. Having said that, Mr. President, let me refer to a few points raised in that speech. References have been made more than once by the Hon. Minister to the speeches made in another place. Of course we are expected, I believe, to read or be present in the other House and I regret to say, Sir, that facilities are not afforded in our country for such reading. In England and, for the matter of that, in South Africa—my friend, the Rt. Hon'ble Mr. Sastri, will bear me out when I say this,—the Hansard comes out the next morning, but here in this country we get reports of our Council in book form sometimes one month after, sometimes after two months—and in one instance we received it in the third month. As for the newspaper reports the trouble is we cannot rely upon them for the entire report. For want of space, they probably give very brief reports and we cannot blame them; and would it be too much to suggest, at this juncture, that, if the Legislature has a press of its own located in this very building, and if the reports are printed overnight and handed to the Members of the House the next morning, it will facilitate matters? It is only then we can be expected to go through them and be prepared to say or not to say something about what has happened in another place. When that is not possible for us, it is impossible for the Members of the House to get themselves correctly acquainted with what has happened in the other place.

“ Having said that, Mr. President, let me come to the Bill itself. As has been pointed out by more than one hon. Member, the principle on which the Government are going is wrong. No doubt they want money. But in a fit of puritanical and humanitarian fanaticism the Government have provided themselves with probably a loss of 4 crores by their prohibition policy. I do not blame them for it at this stage and until some time passes, until we know the result of their policy. But I would submit they have landed themselves in a quandry and it would be difficult for them

[Sir K. V. Reddi Nayudu] [13th December 1938]

to get out of it. We quite sympathize with them and if they come forward with proposals of taxation, from any fresh sources certainly this House will not be wanting in giving its support in all reasonable things. It is admitted that the Government have been managing this fund on behalf of the ports. References have been made by the Hon. Minister himself to certain Acts under which this administration has been carried on, but those Acts clearly define the purpose for which these funds will have to be utilized. Surely the present one is not one of those purposes."

* THE HON. MR. YAKUB HASAN:—"It is . . ."

DR. SIR K. V. REDDI NAYUDU:—"It cannot be. Any way will the Hon. Minister refer me to any provision of law which says that the funds can be diverted to general revenues?"

* THE HON. MR. YAKUB HASAN:—"Section 36 (6) of the Indian Ports Act lays down that the balance can be disposed of by the Government. Under the Act 'balance' means the amount that is left, after the necessary expenditure has been made. The section means that the whole of the balance cannot be used for the purpose of these ports. But if there should be a balance after meeting the necessary expenditure, it could be disposed of by the Government."

DR. SIR K. V. REDDI NAYUDU:—"Sir, I beg to differ from the Hon. Minister in the interpretation of that section. That section does not in the least admit that the balance amount could be utilized or that it could be added to the general revenues. The Hon. Minister is probably aware of what is known as the doctrine of *ejusdem generis*. It means this. There are many lawyers here and it is perhaps unnecessary for me to give many examples. We have now seen it stated that the Government have been managing this fund themselves for the ports. That means the Government are trustees of this fund and if a trustee, according to the law as it prevails in this country, is not entitled to divert the moneys of the trust properties for any purpose which is not germane to the purpose for which the trust money was intended to be spent, even so, the Government cannot divert this fund for any other purpose or take it to the general revenues. Sometimes if on account of some inconvenience, the money has not been spent for the purpose for which it was intended, surely the trustee has got the right to utilize it for a purpose akin to the purpose which is mentioned in the Trust or the Will. For instance if a certain Trust had been created for running a Sanskrit college or meeting the salaries of Sanskrit pandits, and if the money had not been spent for that purpose, then the trustee of that fund could certainly spend it for some educational purpose and it cannot be used for the purpose of refilling the

13th December 1938] [Sir K. V. Reddi Nayudu]

coffers of the Government on account of the loss they have sustained on account of prohibition. My submission is that Government have not told us for what purpose they are going to use this money. If they have told us 'we are using this money for a purpose which is akin to the purpose mentioned in the Act and here is lying some money idle and it is not good policy to allow it to lie idle,' we could very well understand their proposal. They have not been pleased to tell us so. Take for instance cotton cess or tea cess. The cesses are collected for particular purposes. Supposing they have not been spent for the particular purposes for which they have been collected, viz., either for the improvement of cotton or tea, can it be said for a moment that it is open to the Government to take that money and utilize it for some other purpose? It is only collected for the purpose of improving cotton or tea and I do not think the Government will be so unreasonable as to say that they would spend the amount for any other purpose. All I submit is that we are perfectly willing to give any Government our support in any reasonable proposal that they may make for increasing their revenue, and we would have given our support to this Bill if they would use this money for the purpose of improving minor ports. It is true that each port has got its own fund; it is true that Government have been managing these ports, and it is also true that they have been using this money well for the improvement of trade. After all, these landing and shipping dues were paid by merchants and ship-owners for the purpose of meeting certain expenditure. If it was found that the revenues collected in the beginning was larger than what was actually required for the purpose for which it was first collected, surely the previous Government would have reduced the rates. Not that I plead that you should reduce the rates. But whatever we may say of the previous Government, those who believe that the previous Government had not been doing the right thing will say 'Oh, they have mismanaged and wasted their money.' Sir, if it is said that the previous Government have in any way failed in their duty towards these ports, merely because there is a large surplus, I beg to enter my emphatic protest and say that they have done their duty. We are thankful to the Hon. Minister for acknowledging this. Of course I see the difficulties of the present Government. But I ask 'why take away this money and spend it for some other purpose?' I maintain that this is a trust property in the hands of the Government, and it is a breach of trust to spend it for any other purpose."

THE HON. SRI T. PRAKASAM:—"Call it a criminal act."

DR. SIR K. V. REDDI NAYUDU:—"We cannot say so. Whatever is done by the Congress Government is not criminal. But the same thing done by other Governments is criminal."

[Sir K. V. Reddi Nayudu] [13th December 1938]

“ So I appeal to the Government even at this stage, to let us know whether they are going to use this money for any purpose connected with ports and trade.”

* SRI A. RANGASWAMI AYYANGAR:—“ I had no idea of intervening in this debate, for I thought it was practically a formal matter. Indeed it does seem to me that this is merely a case of book adjustment. The money that was in one ledger hitherto has been transferred to another ledger. What is said to be done by this Government is simply a transfer of the money from one ledger to some other ledger. If previously it was found to be the Government's money then there is no breach of trust now. The Government is a trustee not only for the Ports Fund but it is a trustee for all that concerns the people of this Province. And the present Government have told us in unambiguous language that it is the concern of this Government to look after the needs of the minor ports. It was necessary for the previous Government to earmark this particular fund for the development of the minor ports. Now it is no longer necessary. Not only the minor ports but all other matters of the people of this Province are the concern of the present Government. Instead of the welfare of the minor ports being a charge on that particular fund alone, it is now a charge on the entire revenues of the Province and it is open to any hon. Member to ask, if the improvement of minor ports is not attended to, whether it is not obligatory on the part of the Government to attend to the improvements of these minor ports. Therefore I fail to see where this question of breach of trust comes in.

“ The Government do not work in water-tight compartments. My hon. Friend, Sri Reddi Nayudu—I do not propose to call him by the English title of Sir—cannot say that the income from a particular department must be devoted for the welfare of that department alone. That is a worn-out theory of State. Whatever the theories may be regarding the previous Governments and the limitations of those Governments for the purpose of representing the people, you cannot apply the same theories to the present popular Government. Every matter relating to the welfare of the people is a concern of the State. My hon. Friend said that this was a question of trust and this was a question of the diversion of trust fund. He did not advert to the fact that there was such a thing as the doctrine of *cyprus*. So far as the present Government is concerned, Government money can be utilized for any Government purpose. As long as it is the concern of the Government, there is no question of separate compartments and earmarking of any money for a particular purpose; such a thing is no longer necessary under the new regime. In respect of the criticism about the balance, the hon. Member raised an emphatic protest against the inefficiency or the negligence of the previous Government. The existence of

13th December 1938] [Sri A. Rangaswami Ayyangar]

the balance shows one of two things. Either the previous Government were negligent and did not improve the ports or, the improvement of the ports was not necessary and the money was a superfluity. In either case the diversion of the balance of this fund from this ledger to the other ledger is perfectly justifiable and it is a routine matter. Because of the exigency of the law, this kind of legislation has become a necessity; therefore people should not be misled to believe that there is a question of the diversion of the fund or any misappropriation of the fund by the Government."

SRI B. NARAYANASWAMI NAYUDU:—" Mr. President, the first point that has been advanced in favour of this legislation is, there is a surplus in the Minor Ports Fund which is apparently useless and which therefore can be diverted to the general revenues. The first question is, is such a diversion justifiable; is it a correct position? The Government seem to think that this surplus is an idle surplus; it is an absolute waste and therefore the Government can divert this surplus. If it is lying waste, I think the Government have a right to seize it. But the question is, is it really lying waste? To my mind, it is not at all lying waste; it is really what may be called a reserve fund; for instance, it cannot be stated that gold is lying waste in the Reserve Bank; it is not lying idle; the real strength and the real prosperity of the Bank depend upon that gold which may be considered by some people to be lying idle. We have got the Electricity department; apart from the depreciation fund, they have provided a special fund of Rs. 5 or 6 lakhs; we cannot say that that money is lying idle. That is the basis and the whole transaction rests upon that basis. It is not diverted saying that it is an idle surplus; it is not a surplus on which you can lay your hands. For many years now you have been getting enormous revenues from electrical undertakings; yet it cannot be said that it is an idle surplus. As a matter of fact it passed my apprehension that the Government should say that a sum of Rs. 50 lakhs belonging to the minor ports is lying idle. As my hon. Friend, Mr. Reid, stated, the present Swarajist Government must be aware that a large amount of trade is carried on by the inland water-courses. Anybody who has seen the minor ports, can understand in what a bad state the ports are. It is sorry to note that the present national Government could not spend a sum of about Rs. 60 lakhs for the improvement of these ports; it was stated by the Hon. Minister, that dredging fees is one thing and the entry fees which is levied upon tonnage is another thing.

"The real question is whether the Masulipatam Port is really a good port. The Nizam's Government have been trying to get a sea-outlet for their products and they have been asking

[Sri B. Narayanaswami Nayudu] [13th December 1938]

the British Government that they might be given a good seaport. The present National Government should improve such ports; this is what is done by every Government including the Totalitarian State like Germany. The National Government in this Province are trying to put their hands on this sum of Rs. 60 lakhs belonging to the minor ports. Even after setting apart a sum of Rs. 20 lakhs we have got a balance of Rs. 40 lakhs. To my mind it is most profitable to spend this money on the improvement of inland water-courses. You will stand to gain a large amount by improving these water-courses; it is a source of profit to you; it is absolutely impossible for me to believe that the National Government in this Province think that this sum of Rs. 58 lakhs is a superfluity and that they can take away Rs. 40 lakhs for some other purpose.

“There is another argument that this transfer is from one ledger to another ledger. It is absolutely wrong to say that this is a transfer of entry in the ledgers. If it is taken from one fund and put in another fund and kept there safely, then we can say that there is no transfer of the amount. Here it is proposed to take over the surplus of the fund and add it to the general revenues of the Province. This would not improve the funds of the minor ports.

“Another argument was advanced by Mr. Rangaswami Ayyangar. He asked ‘what do you care about this fund? Even if the Government take away this sum of Rs. 60 lakhs, against this sum, you have got Rs. 16 crores from which you can improve the ports. This sum of Rs. 60 lakhs is consolidated with the fund of the Madras Government of Rs. 16 crores every year. You are struggling against this transfer; you are lamenting over the transfer of these Rs. 60 lakhs to the Rs. 16 crores of the Madras Government.’ This is a spurious argument. I can only say this; if to-day you are asked to transfer your defence expenditure and put it alongside the defence expenditure of Great Britain, would you like it? They have got a consolidated fund of over millions of pounds. Your consolidated fund is only Rs. 16 crores. Would you like to merge your fund with the consolidated fund of Great Britain? It is dangerous to do so. You now propose to transfer the accumulated sum of Rupees 60 lakhs belonging to the minor ports, to the general revenues of the Province.

“You want a large amount of money to improve all the ports in the Province. Masulipatam is an important and first-class port; Mangalore also is a first-class port. Are the Government going to utilize the fund for the development of these important ports? Mr. Saldanha said that this is a question of misappropriation; it is a question of transferring Rs. 58 lakhs to the

13th December 1938] [Sri B. Narayanaswami Nayudu]

general revenues of the Province. There would be no objection if the amount is used for the improvement of the ports. The whole difficulty is this; this Government have got a deficit budget; they want to make money; direct taxation is thought to be perhaps difficult to impose; the Government have to transfer this money. There has been a big pit created; the only remedy left is to transfer this sum of Rs. 40 lakhs. As my hon. Friend, Sir Reddi Nayudu, said, the Government should not transfer this fund to the general revenues of the Province. The Bill says that the balance standing on the 31st day of March 1939 to the credit of the Minor Ports Fund in excess of Rs. 20 lakhs shall be credited to and shall be disposed of along with the rest of the revenues of the Province. Therefore there is no doubt about it; the Government are going to spend this amount. Many hon. Members have already asked the question and I wish to put the question again, what is the purpose on which you are going to spend this Rs. 40 lakhs? I can understand it if it was stated that this amount is going to be utilized for a special purpose. If the Hon. Mr. Giri said, 'I am putting up a programme for purchasing or making aeroplanes or zeppelins, therefore, I want this money,' then, we can say 'take the money for this purpose; the object is a precious one.' I can understand such a purpose and this House would agree with it. Or is it a case of a cyclone devastating the country? The Hon. the Revenue Minister might say 'I am unable to give all the money required to relieve the distress; therefore give me money'; I can understand that also. Or is it a case of an Asiatic Power bombing your ports? Then you must have anti-air raid precautions and therefore you want this money. Is there any indication given to any Member of this House as to the purpose for which this sum of Rs. 40 lakhs is going to be diverted? This House is asked to give permission to merge this sum of Rs. 40 lakhs into the general revenues of the Province. The question is, there is a deficit; how is it going to be made up? Without mentioning the purpose for which you want this money, you simply say 'permit us to put this money with the general revenues.' As my hon. Friend, Sir Reddi Nayudu, said, this is intended to fill up the pit, the prohibition pit; a deep pit is there. Let the State clearly put the question to the people, 'do you want prohibition or do you want the ports to go?' These are the two alternatives; if you want prohibition, then minor ports would not be improved.' The question may be put clearly and directly to the people; 'do you want prohibition to go or the minor ports to go?' For these reasons, I have no hesitation in opposing this measure."

* MR. S. J. GONSALVES:—"Sir, the principle underlying this Bill is to take away the special revenues earned by minor ports and to merge them in the general revenues of the Province.

[Mr. S. J. Gonsalves] [13th December 1938]

This principle seems to be a very pernicious one. It should not be accepted unless and until the Government are in a position to state that all the minor ports in this Province are kept in a very efficient condition. My view is that many of these ports are not at all in an efficient condition. The Hon. Minister for Public Works has said that there has been a surplus, because the ports do not know how to use the income earned. My submission is there has been a surplus because the previous Government thought that, if the money is saved, it can be utilized for the expansion and development of the ports themselves. This House will concede that the expansion and development of ports require very large sums of money and until these ports have in their hands, large sums of money, they cannot launch on a plan of expansion and development of the ports. Take for instance, the port of Mangalore; the Hon. the Minister for Public Works stated that it has a saving of Rs. 1,16,000. If the surplus amount is taken away from the Port Fund and merged in the general revenues of the Province, the Port of Mangalore will derive no benefit from its savings. I raise the question whether the port of Mangalore is not in a pitiable condition now. My hon. Friend, Mr. Saldanha, has drawn the attention of the House to the fact that the bar of Mangalore Port is at times only 5 feet deep; that port has no outlet to the sea for four out of twelve months in the year. Mangalore is one of the important ports on the West Coast. There are big industries like the tile industry and the coffee industry; coffee industry has been carried on for great many years and the want of an outlet to the sea has been in a way handicapping the coffee industry of Mangalore. There are several firms which have spent large sums of money on the establishment of large curing works; they suffer a great deal because there is no outlet to the sea during four months. The Government of Mysore have thought it necessary to have a curing factory in Chikmagalur. They have started a factory and the result of it will be that a good part of export trade that has been carried on for so many years through the port of Mangalore, will be diverted to the port of Marmagoa which is in the Portuguese territory. I must bring to the notice of this House the deplorable condition of the port of Mangalore; I would say that a sum of only Rs. 1,16,000 would not at all be enough to improve the port sufficiently. Unlike other ports in the West Coast, the port of Mangalore has got a backwater. If a sufficient sum of money is spent in deepening the bar and the necessary part of the backwater, outlet to the sea would be provided during the remaining four months of the year. This is a very necessary improvement. I submit that until and unless this improvement is effected to this port along with other improvements to other ports, this diversion of funds from the Special Minor Ports Fund to the General Funds of the Province cannot be

13th December 1938] [Mr. S. J. Gonsalves]

justified. I would ask the Government to consider this point. I would appeal to the Government to make the necessary improvements to the ports requiring them, so that they can be brought up to an efficient condition. Until all the 54 ports are brought up to an efficient condition, I would appeal to the Government not to transfer this special fund to the general funds of the Province."

* THE HON. SRI C. RAJAGOPALACHARIAR:—"Sir, I wish to crave the indulgence of the House for just a few minutes. The manner in which the various hon. Members have expressed themselves leaves me with this impression and I want their forgiveness if I frankly say that, their motives are excellent but it seems to me as if they have all misunderstood the principles which they have put forth and are trying to put them in such a way that the results will be just the opposite of what they want. It was more or less unanimously said that these ports should be improved, that our coastal trade should be improved and that the Province should stand to gain. But, it seems to me that they are ignorant of the fact that the coastal trade cannot be improved by merely beautifying the ports, and by merely increasing the expenditure on the ports. It would be as foolish to imagine that we can benefit by spending more and more money on the ports as it would be for the inhabitants between Arkonam and Madras to imagine that more people will arrive in the stations intervening if they improve the structures in the various railway stations in the way. Simply because we won't try to improve the ports, it does not mean keeping the reserve funds in the minor ports of the Madras Province increasing. Mr. Narayanaswami Nayudu referred to the fact that by increasing the reserve funds of these ports and going on borrowing more and more money for their improvement, we can improve the coastal trade of our country; it is simply a wrong notion to think so. I am surprised at it, but really I should not be surprised if with the same motives people take an entirely different view. We are all agreed that our Province should improve; that our Province should get the benefit of the trade in these ports, but what is the way to get at that? Is it by keeping Rs. 50 or 60 lakhs or even a crore, or, can it be by reducing the accumulated reserve in these minor ports funds? It has been tried by previous Governments and there are records to show that the previous Governments tried for the last so many years without even diverting a single pie out of these port funds, and even by levying a fee to be spent on the various ports, but they could effect only minor improvements met out of the landing and shipping charges referred to by the Hon. the Minister for Public Works. So, the previous Governments have tried to improve them and they have not succeeded. What then is in the

[Sri C. Rajagopalachariar] [13th December 1938]

way? This present Minor Ports Fund Bill has been understood by many hon. Friends to mean that we intend to raid this fund simply because there is a loss on account of prohibition—not any other misfortune, it does not matter—and that we are trying to make up. Are we so short-sighted as to imagine that by taking up this amount this year our business is finished? Surely, we are not so foolish; and even though we may be fanatics in the matter of saving people from drink, it does not mean that we forget the least arithmetic that we have learnt. If we take away this Rs. 50 lakhs this year to meet the deficit, where are we to go next year and thereafter if we are not going to withdraw prohibition? We may be fanatics, but we are not fools. The object of this Bill is much higher. It is to take the administration of these minor ports out of the department to which it is connected now. That is the principle of this Bill. The competition between port and port, the competition between the Central Government and the Provincial Government with regard to the sources of revenue and the competition not only of one port with another, but of all the ports, even big ports, all these are very delicate elements to be taken into account. If people wish to improve the trade of our Province, it is not by keeping money as a reserve, it is not by improving the particular structure or a wall at a particular place, that we can improve it. We must see that our coastal trade is improved. It has not been done hitherto. What shall we do for it? First of all, we must get an interest in this coastal business; we must get an interest and pay attention to these ports. Hitherto what has been done? And, what is the explanation why so much money has been allowed to accumulate? It is because the Central Government are not interested in this matter; it is because the big shippers are not interested in all the various 50 or 60 ports in the Province. Therefore we should look into this matter a little more deeply. We should look into this matter not merely superficially, not merely in the sense of diverting the reserve money; and I am not going to go further into this matter, but because the charge has been made repeatedly that we have been either foolish or simply wanting to raid this fund I rose to explain this. I would first of all make the matter clear as regards the motive in bringing forward this Bill. It is not a particular year's motive; it is not raiding; but it is simply for the purpose of taking the administration of these ports out of the rut and making it a real live part of the administration of the Province that it has been brought forward, so that every year when the budget of the Province is discussed, both the Houses will have an opportunity of knowing what has become of these ports, what is being done with this money and whether it is a distinct gain or not. It was said by the first hon. Member who spoke in this matter that everything was already settled. Most of the interests who are concerned with

13th December 1938] [Sri C. Rajagopalachariar]

this subject—if I may use that expression, not with a deep meaning but with a superficial meaning—were represented in the Select Committee on the Bill and there was nothing that could have been said after the matter was thoroughly thrashed out in the Select Committee and in the other House, and this is an agreed Bill. It was said that the provision of Rs. 20 lakhs was not enough. It was as a sort of token of the mutual co-operation that we had secured that. It does not mean anything more than that. I may take the House into the secret and tell them that we wanted to put in Rs. 17 lakhs and fought for it, but instead you have Rs. 20 lakhs, not Rs. 17 lakhs; and it was rounded not on the wrong side but on the right side. The principle is, that it is a joint and single responsibility for the whole Province and the minor ports are part of the Provincial administration and looked after by the Provincial Government and the Provincial Legislature. It is in this sense that I want this House to give its agreement to this Bill."

* THE HON. MR. YAKUB HASAN :—" Mr. President, I must first thank the House and the Members who have spoken on this subject to-day for the courteous manner in which they have treated my proposal. The Opposition sometimes think that it is the function of the Opposition always to oppose. They are always on the look-out for an excuse to oppose the Government. Even if there was a very good proposal before them they sometimes oppose it for opposition sake. If they feel convinced, after explanations are given, that there is something good in the Government proposals, they must be prepared to support them too. I can understand a measure being opposed on certain principles. In that case criticism is welcome. I must also thank Mr. Reid for paying me compliments, which I very much appreciate. I want one thing to be made clear to the public as well as to Members of both the Houses, that as far as I am concerned, I am anxious that these ports should play a more important part in the development of the trade of the Presidency than they have played hitherto and if any improvements are necessary towards that end, I shall fight for them and try my best to bring them about. I have given that assurance in the other House and I give that assurance here also.

" Mr. Reid said that from the way the Government are handling this question, it would appear to him that the Government want to make the ports a source of income, and a source of revenue. I do not wish to go into that matter at length. I do not see there is any harm in making the ports a source of revenue. However, I do not wish to enter into that aspect of the matter now. But, as far as this Bill is concerned, I want to point out to him only one thing. The object of the Bill that was introduced

[Mr. Yakub Hasan] [13th December 1938]

by me originally, was that all balances from time to time standing to the credit of the Minor Ports Fund shall not be accumulated beyond a limit of five lakhs and any sum now in excess or which may hereafter be in excess of five lakhs in the said fund shall be credited to the revenues of the Province. If that Bill had not been amended the balances would have automatically gone to the general revenues of the Province, which meant that in every year's Budget a sum would have been shown on the revenue side as the balance that may be expected in that year from the Minor Ports Fund. But since then the Bill has been so amended in the Select Committee that the Ports Fund cannot be a constant source of 1-15 revenue. The present Bill says in Clause 3 that 'the balance p.m. standing on the 31st day of March 1939 to the credit of the Minor Ports Fund in excess of twenty lakhs of rupees shall be credited to and shall be disposed of along with the rest of the revenues of the Province.' So, the present fund that has accumulated, after keeping aside a sum of Rs. 20 lakhs, goes to the general revenues. Mr. Reid said that if this is to be done only once, he does not mind so much, but that it should not be made a precedent for the future and that ports should not become permanent sources of revenue. His idea is probably that if they become permanent sources of revenue, the Government will try to raise the port dues as much as possible and try to add as much as possible to the balance in this ports fund, so that it might be possible to take large balances to the general revenues every year. I may tell him that even if, according to the original Bill, the ports had to become regular sources of revenue, Government would not have been so foolish as to administer them merely with a view to benefit the general revenues. After all, the normal income of these ports and their normal expenditure are such that every year there is not likely to be more than a lakh and a half of surplus, and even out of that one and a half lakhs, we will have to spend some amount in giving grants to Landing and Shipping Committees for the improvements of these ports. For the present it is only the balance standing to the credit of the fund on the 31st of March 1939, after deducting twenty lakhs, that is going to be credited to the general revenues. But in regard to subsequent years, this is what the amended Bill says:

'Such portion of the balance standing to the credit of the Minor Ports Fund on the 31st day of March in the year 1940 or in any subsequent year, as the Provincial Government may, with the approval by resolution, of the Madras Legislative Assembly, determine, shall be credited to and shall be disposed of along with the rest of the revenues of the Province.'

"So, in the subsequent years, the Government may or may not desire to divert such accumulations, or whenever they want to, they will have to go before the Legislative Assembly to get its approval for such diversion. Therefore, balances in future will

13th December 1938] [Mr. Yakub Hasan]

not accumulate to any very great extent, because, as I have shown, after the necessary expenditure, there may not be any appreciable surplus; and the occasion will seldom arise when the Government will have to go to the Assembly for its approval for the transfer of any amount to the general revenues.

“ Sir, I admit that ports would have become a source of revenue if the Bill as originally introduced had remained unamended; but under the amended Bill balances cannot be diverted automatically every year to the general revenues. I therefore think, Sir, that the amended Bill will go a long way in creating confidence in the public mind that the Government's intentions are nothing more than what I have already stated.

“ Sir, when members of the Congress Party were in the opposition, we were of course criticizing the Government of the day for their sins of omission and commission; but now that we form the Government, we do not display any bad taste and attack the past Government in any act of theirs. On the other hand, there have been occasions when we have supported the acts of the previous Government and stated that we would also continue to do the same; but still we have made clear on many occasions that we are no admirers of the previous Government. But in this case, I am in the happy position to say that the previous Government never neglected these ports. They have now and then laid down that when surpluses have accumulated in this fund and money is available, it should be spent for the benefit of the ports as far as necessary; and all schemes that were brought forward during their time for the improvement of these ports were accepted, except those which were found to be not feasible. And even those schemes which were occasionally rejected were rejected on very good grounds. Mangalore was referred to and Masulipatam also was referred to during the discussions; and Mr. Saldanha was very very angry that while I visited many districts on many occasions, I went to Mangalore or South Kanara only once. He wanted to make out that not only the previous Government neglected these ports but the present Government also neglected them, and that the Minister in charge of Ports has been guilty of such neglect. Now, Sir, let me tell him that I have visited other districts principally in the interests of irrigation, but I visited South Kanara—and it is the only district that I have visited for this purpose—for the sake of its ports only. Sir, I have studied the case of the Mangalore port. I am now in a position to say that I know the requirements of Mangalore port much better than even Mr. Saldanha himself and I know exactly what is required there. It was said by Mr. Gonsalves that Mangalore has got a backwater and if that backwater is always kept clear of silt accumulation, many foreign-sailing vessels could enter the port. I agree with him. The question of dredging came before the Government more than

[Mr. Yakub Hasan] [13th December 1938]

once and Government gave it full consideration every time; and as a result of it, a suction dredger was sanctioned by the Government. A suction dredger was considered to be quite enough for the purposes of that port. There was no doubt a proposal to have a sea-going dredger; Government examined that proposal but they turned it down—not because there were no funds available. There were enough funds at that time, but the past Government thought that it was not absolutely necessary to have a sea-going dredger for that port. As a matter of fact, there is a proposal even now before the Government for the purchase of a sea-going dredger at a cost of four lakhs and it is under examination. And it is suggested that a sea-going dredger may be utilized for other ports also, and that suggestion is being seriously examined.

“ In an answer I gave to a question in this House you will find that there are two or three schemes in connexion with Mangalore; and I may particularly assure Mr. Saldanha that the needs of Mangalore will receive the fullest attention and that no justifiable expenditure will be considered too high to make it more efficient than now. It was also stated that because there is the backwater, this port can be made into a good harbour. Yes, if we spend about three crores of rupees over it, we can make it a good harbour; but let us remember the difference between a minor and a major port. Major ports are harbour ports, and the administration of such major ports are taken away by the Central Government, under the Government of India Act of 1935. That was wrongly done. The Central Government had no business to take over such ports under their own administration. After all, such a port as Vizagapatam has not so far been a success under the Central Government's administration and it is doubtful whether it will ever be a success. Therefore, Sir, I don't think Mangalore should desire to become a major port or a harbour; and as a minor port, it can serve a better purpose than a harbour.

“ The same hon. Member made a reference to the port of Masulipatam; and in regard to that also, as in the case of Mangalore, I can assure the hon. Member that the requirements of Masulipatam will receive the best attention of the Government.

1-30 p.m. “ My hon. Friend, Mr. Narayanaswami Nayudu, asked why all the accumulated balances should be taken over to the general revenues, why cannot all the funds be spent away on ports? I may tell him that the balances have accrued not because the Government had been niggardly in spending money. They have accumulated little by little over a period of thirty-three years. Every year a sum of about one and a half lakhs was going towards it and it has come to the present level. The same thing will continue hereafter also and surpluses will remain there but they will not be taken over to the general revenues every year. Government may come to the Legislature later saying ‘ We have spent so

13th December 1938] [Mr. Yakub Hasan]

much; we have attended to all the requirements of the ports and yet so much is available. So please allow us to take it to the general revenues.' At that time, you may generously say 'Yes' or emphatically 'No'. I contend that it is a legitimate act of ours to remove the unwanted part of the fund to the general revenue. Some of the hon. Members opposite attack the prohibition policy of the Government and they say that the Government have been very foolish in throwing away so much revenue. The Government have several proposals of taxation under consideration to make up the loss of revenue on account of prohibition and the public will have to pay for the benefit that they would derive from prohibition. So Government are anxious to take this money. But let me tell them that it is not because the Government want money that they are taking this surplus. On the other hand it is because there is no use for it that it is being taken to the general revenue. All the available money is not actually required for purposes of improving the ports. When a major portion is not required for that purpose and when neither we nor the previous Governments have been niggardly in the matter of spending it, it is but just that we should take over the balance to the general revenues. Even hereafter, there is bound to be surpluses accruing in the fund. If it ever happens that there is no balance in the fund, the Government are there to come to the help of the ports and whatever money would be required will be found from the general revenue."

The motion was put and carried and the Bill was taken into consideration.

The Council adjourned for lunch till half past two.

After Lunch (2-30 p.m.)

Clause 2.

Clause 2 was put and carried.

Clause 3.

SRI B. NARAYANASWAMI NAYUDU :—" I beg to move—
'In line 3, for the word "shall" the word "may" shall be substituted.'

"It will be seen that in the clause it is stated that the balance 'shall' be credited to and 'shall' be disposed of along with the rest of the revenues of the Province. It is a mandate that whatever might be the circumstances of the fund, they shall do it and they shall spend it. On the other hand it will be wise to leave it to the discretion of the Government to take such portion of the fund as may be necessary, leaving the remaining amount intact. As the clause stands at present, it

[Sri B. Narayanaswami Nayudu] [13th December 1938]

is a mandate to take everything that remains in excess of Rs. 20 lakhs, whether it is necessary or not. Therefore I propose that the word 'may' may be substituted for the word 'shall'."

Sri Rao Bahadur M. Ramakrishna Reddi seconded it.

* THE HON. MR. YAKUB HASAN :—" If the Bill had remained as originally introduced, there would have been some meaning in amending the clause in the way in which it is now sought to be amended. In the original Bill it was laid down that every year whatever balance remains in excess of five lakhs shall automatically go to the general revenue. In that case an amendment of this kind would have had some meaning. But now the balance in excess of 20 lakhs that may be available only on the 31st March 1939 will be transferred. Thereafter no balance will automatically go to the general revenue, but a resolution will have to be placed before the Assembly. I therefore oppose the amendment."

The amendment was put and lost.

Clause 3 was put and carried.

Clause 4.

SRI B. NARAYANASWAMI NAYUDU :—" I beg to move—

" In line 1, after the word " balance " the words " in excess of 20 lakhs of rupees " shall be inserted."

" In the original Bill it is said that a sum of 5 lakhs of rupees shall stand to the permanent credit of the fund, but under this new Bill while a balance of 20 lakhs of rupees is left on the 31st March 1939, on March 31, 1940, such portion of the balance standing to the credit of the Minor Ports Fund as may be determined by the Provincial Government shall be absorbed into the revenues of the Province. If the principle is to keep a permanent fund of Rs. 20 lakhs, then the question is, what will be the balance that might be credited on 31st March 1940? For instance, on 31st March 1939 a balance of Rs. 20 lakhs will be left and this will be taken over to the next year. If during the next year or during any of the subsequent years the net balance is 10 or even 12 lakhs, then according to this provision, the Government will have power to take away even from this 10 or 12 lakhs. If the principle of the Bill is to keep always a permanent fund of 20 lakhs whether there are repairs existing or whether they are carried out or not, then provision should be made that only such portion of the balance exceeding 20 lakhs might be taken over, and in order to ensure that permanent fund, these words ' in excess of 20 lakhs of rupees ' should be

13th December 1938] [Sri B. Narayanaswami Nayudu]

inserted. The result of this clause as amended by the Select Committee is that we do not have even the guarantee of 5 lakhs in this fund. Therefore I propose that this amendment may be accepted."

Sri Rao Bahadur N. R. Samiappa Mudaliyar seconded it.

* THE HON. MR. YAKUB HASAN:—"What is the object of keeping a balance in the Port Fund? That must be understood first. Now we are keeping 20 lakhs of rupees to the Port Fund, because there are certain proposals for certain improvements to be made. Therefore some money must be kept there to carry out such proposals as may be found necessary. But after those proposals have been carried out, we come to a position when no more proposals would remain to be carried out and even then you want 20 lakhs to remain there. According to Mr. Narayanaswami Nayudu that 20 lakhs must remain always there. I say, why? Why should that amount remain there? Is it because in future there may be other improvements necessary? There are no other proposals for improvements. Then why should so much money remain in the fund?

"In the original Bill, we wanted 5 lakhs to remain there. The reason why we fixed 5 lakhs was this: Our income for one year is 5 lakhs and our average expenditure for one year is $3\frac{1}{2}$ lakhs, leaving a surplus of $1\frac{1}{2}$ lakhs. So we said let one year's income, namely 5 lakhs, remain there to meet the necessities, if necessities arise. There was some object in keeping 5 lakhs, but there is no object in keeping 20 lakhs always permanently.

"Again, the question of determining the portion of the balance to be transferred, will come before the Legislature, and it will then be open to you to say what portion shall remain behind. But you cannot say that a sum of 20 lakhs should be permanently kept there. The question of what is the amount that should be kept there will arise when the Government will move next time for the transfer of the amount. The Legislature will then decide what amount should remain there. It may be 20 lakhs, or 10 lakhs or 5 lakhs. Whatever it is, it will have to be decided by the Legislature then only. So I oppose this amendment."

The amendment was put and lost.

SRI B. NARAYANASWAMI NAYUDU:—"I beg to move that—

'In line 5, after the words "the Madras Legislative Assembly" the words "and of the Madras Legislative Council" shall be added.'

"My amendment seeks to add the Madras Legislative Council along with the Madras Legislative Assembly when the question of determining the amount to be transferred comes up for consideration. I really do not understand why it was not done

[Sri B. Narayanaswami Nayudu] [13th December 1938.
even in the Select Committee. But I suppose this House is not going to deprive or efface its own powers. Therefore I propose this amendment for the acceptance of the House.”

Sri Rao Bahadur N. R. Samiappa Mudaliyar seconded it.

* THE HON. MR. YAKUB HASAN:—“ According to the constitution, all financial matters are disposed of by the Legislative Assembly only. The annual Budget and other things of that sort, go only before the Assembly and they do not come before the Council. In the same way, according to the constitution, this question too cannot be brought here. It must only go before the Assembly. Therefore I oppose this amendment.”

The amendment was put and lost.

Clause 4 was then put and carried.

Clause 1 and the preamble were put and carried.

* THE HON. MR. YAKUB HASAN:—“ I beg to move—

‘ that the Bill be passed into law ’.”

The motion was put and carried and the Bill was passed into law.

III.—THE MALABAR TEMPLE ENTRY BILL, 1938 (L.A. BILL No. 21 OF 1938), AS PASSED BY THE ASSEMBLY.

* THE HON. SRI C. RAJAGOPALACHARIAR:—“ Sir, I beg to move—

*‘ that the Bill * to remove the disabilities of certain classes of Hindus in regard to entry into temples in the district of Malabar (L.A. Bill No. 21 of 1938) as passed by the Assembly, be taken into consideration at once.’*

“ In moving it, I do not wish to take up much length of time. I come for the blessing of this House of Elders for a measure which is fraught with great importance in all aspects of national life. It is not merely a particular district measure; it is not merely a particular department for improvement. It may seem to be only a measure in respect of a particular district; it may seem to be only a measure for allowing a few more people into an institution which is looked upon by most of the worldly-minded people as almost a right to close it for others. But, Sir, it is in the conviction that it is not a parochial matter but ultimately a matter of utmost national importance, not merely a matter dealing with any particular institution but a matter that will affect life as a whole in our country, that I ask for the blessing of this House for this measure.